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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 1st April, 1976.

BILL No. XXIV OF 1976

A Bill further to amend the Merchant Shipping Act, 1958.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Merchant Shipping (Amendment) Act, 1976.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions.

Change of nomenclature of unberthed passenger ship and unberthed passenger.

44 of 1958.

2. In the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), for the words "unberthed passenger ships", "an unberthed passenger ship", "unberthed passenger ship", "unberthed passengers", "an unberthed passenger " and "unberthed passenger", wherever they occur, the words "special trade passenger ships", "a special trade passenger ship", "special trade passenger ship", "special trade passengers", "a special trade passenger" and "special trade passenger" shall respectively be substituted.

Amendment of section 3.

3. In section 3 of the principal Act,—

(*a*) for clauses (27) and (28), the following clauses shall be substituted, namely:—

'(27) "pilgrimage" means pilgrimage to any holy place in the Hedjaz or to any other place declared by the Central Government to be a place of pilgrimage by notification in the Official Gazette.

(*28*) "pilgrim ship" means a special trade passenger ship which makes a voyage to or from the Hedjaz, or, as the case may be, to or from any other place of pilgrimage declared as such by the Central Government in pursuance of clause (*27*), during the season of the pilgrimage and which carries pilgrims in a proportion of not less than one pilgrim for every one hundred tons of the gross tonnage of the ship;';

(*b*) in clause (*38*), after sub-clause (*i*), the following sub-clauses shall be inserted, namely:—

"(*ia*) a special trade passenger ship safety certificate,

(*ib*) a special trade passenger ship space certificate,";

(*c*) after clause (*47*), the following clauses shall be inserted, namely:—

'(*47A*) "special trade" means the conveyance of large number of passengers by sea within prescribed sea areas;

(*47B*) "special trade passenger" means a passenger carried in special trade passenger ship in spaces on the weather deck or upper deck or between decks which accommodate more than eight passengers and includes a pilgrim or a person accompanying a pilgrim;

(*47C*) "special trade passenger ship" means a mechanically propelled ship carrying more than thirty special trade passengers;';

(*d*) clauses (*51*) and (*52*) shall be omitted.

Amendment of section 240.

4. In section 240 of the principal Act—

(*a*) for sub-section (*1*), the following sub-sections shall be substituted, namely:—

"(*1*) A ship intended to carry special trade passengers between ports or places in India shall not commence a voyage from any port or place appointed under sub-section (*1*) of section 237, unless the master holds certificates to the effect mentioned in sections 241 and 242.

(1A) A ship intended to carry special trade passengers from or to a port or place in India to or from a port or place outside India shall not commence a voyage from any port or place appointed under sub-section (*1*) of section 237, unless the master holds—

(*i*) a passenger ship safety certificate;
(*ii*) an exemption certificate;
(*iii*) a special trade passenger ship safety certificate;
(*iv*) a special trade passenger ship space certificate; and
(*v*) a certificate referred to in section 242.";

(*b*) in sub-section (*2*), for the words "unless the master holds the aforesaid certificates", the words, brackets, figures and letter "unless the master holds the appropriate certificate for the voyage specified in sub-section (*1*), or as the case may be, in sub-section (*1A*)" shall be substituted.

5. For section 241 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 241.

"241. (1) The first of the certificates referred to in sub-section (1) of section 240 (hereinafter called certificate A) shall be in the prescribed form and contain such particulars as may be prescribed. Contents of certificate A.

(2) In particular and without prejudice to the generality of the foregoing power, certificate A shall contain the following statements and particulars, namely:—

(i) that the ship is seaworthy;

(ii) that the ship is properly equipped, fitted and ventilated;

(iii) the number of special trade passengers the ship is certified to carry; and

(iv) such other particulars as may be prescribed.

(3) Certificate A shall remain in force for a period of one year from the date of issue or for such shorter period as may be specified therein.".

6. In section 242 of the principal Act, for clause (c), the following clause shall be substituted, namely:— Amendment of section 242.

"(c) that the master holds—

(i) a certificate of survey and certificate A; or

(ii) a passenger ship safety certificate accompanied by an exemption certificate, a special trade passenger ship safety certificate and a special trade passenger ship space certificate; or

(iii) a nuclear passenger ship safety certificate;".

7. In section 244 of the principal Act, for the proviso, the following proviso shall be substituted, namely:— Amendment of section 244.

"Provided that he shall not cause a ship holding a valid certificate referred to in sub-clause (i) or sub-clause (ii) or sub-clause (iii) of clause (c) of section 242 to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable grounds, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the service on which she is to be employed.".

8. The heading *"Special provisions relating to unberthed passenger ships"* occurring below section 254 of the principal Act shall be omitted. Omission of heading below section 254.

Amendment of section 255.

9. In section 255 of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:—

"(3) The master, owner or agent of any ship which is intended to sail on a voyage as a pilgrim ship from any port or place in India shall, before advertising such ship for the conveyance of pilgrims or offering to convey any pilgrim by such ship or selling or promising or permitting any person to sell a passenger ticket to any pilgrim for conveyance by such ship, supply to the officer appointed in this behalf (hereinafter referred to as the pilgrim officer) at the port or place from which the ship is to commence the voyage, and at each port or place in India at which she is to touch for the purpose of embarking pilgrims, full particulars as to the name, tonnage and age of the ship, the maximum number of passage tickets of each class to be issued, the maximum price of each class of passage tickets, the probable date on which the ship is to sail from that port or place, the ports, if any, at which she is to touch, the place of her destination, and the probable date of her arrival thereat.

(4) The master, owner or agent of the ship shall supply to the pilgrim officer, within three days from the date of demand, such further information in regard to the matters mentioned in sub-section (3) as that officer may in writing demand from him.

(5)(a) The master, owner or agent of the ship shall advertise at such port or place and in such manner as may be prescribed—

(i) the place of destination of the ship,

(ii) the price of each class of passage tickets which shall not be in excess of the price communicated to the pilgrim officer under sub-section (3), and

(iii) the provisional date of sailing from that port or place.

(b) The master, owner or agent of the ship shall also advertise the final date of sailing not less than fifteen days before such date.

(6) No master, owner or agent shall—

(a) without reasonable cause, the burden of proving which shall lie upon him, fail or refuse to supply any particulars or information which he is by or under this section required to supply or supply false particulars or information; or

(b) advertise any ship for the conveyance of pilgrims, or offer to convey pilgrims by any ship, or sell or promise or permit any person to sell passage tickets to pilgrims for conveyance by any ship, without having first supplied the particulars required by sub-section (3) and in accordance with the provisions of that sub-section; or

(c) advertise a price for passage tickets at the port or place in excess of the price communicated to the pilgrim officer under sub-section (3); or

(d) offer to convey pilgrims by any ship from any port or place in India or sell or promise or permit any person to sell passage tickets to pilgrims for conveyance by a ship from any

such port or place without having advertised as required by clause (*a*) of sub-section (*5*), the matters specified in that clause; or

(*c*) sell or permit any person to sell to any pilgrim any passage ticket at a price in excess of the price communicated to the pilgrim officer under sub-section (*3*).".

Amendment of section 256.

10. Section 256 of the principal Act shall be re-numbered as sub-section (*1*) of that section, and

(*a*) in sub-section (*1*) as so re-numbered, after the words "the certifying officer", the words "or such other officer as the Central Government may appoint in this behalf" shall be inserted;

(*b*) after sub-section (*1*) as so renumbered, the following sub-section shall be inserted, namely:—

"(*2*) In either of the following cases, namely:—

(*a*) if after a pilgrim ship has departed or proceeded on her voyage, any additional pilgrims are taken on board at a port or place within India appointed under this Part for the embarkation of pilgrims, or

(*b*) if a pilgrim ship upon her voyage touches or arrives at any such port or place, having previously received on board additional pilgrims at any port or place outside India,

the master shall obtain a fresh certificate B from the certifying officer or such other officer as the Central Government may appoint in this behalf at that port or place, and shall make an additional statement specifying the number and the respective sexes of all the additional pilgrims.".

Amendment of section 257.

11. In section 257 of the principal Act—

(*a*) in sub-sections (*1*) and (*2*), after the words "certifying officer", the words "or such other officer as the Central Government may appoint in this behalf" shall be inserted;

(*b*) after sub-section (*2*), the following sub-sections shall be inserted, namely:—

"(*3*) The master of every pilgrim ship departing or proceeding from any port or place in India shall sign a statement in duplicate in the prescribed form specifying the total number of all the pilgrims embarked and the number of pilgrims of each sex embarked and the number of the crew and such other particulars as may be prescribed and shall deliver both copies to the certifying officer or such other officer as the Central Government may appoint in this behalf at the port or place and such officer shall thereupon, after having first satisfied himself that the entries are correct, countersign and return to the master one copy of the statement.

(*4*) The master of every pilgrim ship arriving at any port or place in India at which it may be intended to discharge pilgrims, shall, before any pilgrims disembark, deliver a statement signed

by him specifying the total number of all the pilgrims on board and the number of pilgrims of each sex and the number of the crew, and such other particulars as may be prescribed to the certifying officer or such other officer as the Central Government may appoint in this behalf at the port or place.".

Amendment of section 258.

12. In section 258 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The master of every pilgrim ship shall note in writing on the copy of the additional statement referred to in sub-section (2) of section 256 or of the statement referred to in sub-sections (3) and (4) of section 257, the date and supposed cause of death of any pilgrim who may die on the voyage, and shall, when the pilgrim ship arrives at her port or place of destination or at any port or place where it may be intended to discharge pilgrims, and before any pilgrims disembark, produce the statement, with any additions made thereto,—

(a) where such port or place is in India, to the certifying officer or such other officer as the Central Government may appoint in this behalf;

(b) where such port or place is outside India, to the Indian consular officer.".

Amendment of section 259.

13. In section 259 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) (a) Every pilgrim ship carrying pilgrims and crew not exceeding one thousand in number shall have on board a medical officer possessing such qualifications as may be prescribed, and, if the number of pilgrims and crew carried exceeds one thousand, a second medical officer similarly qualified and also in all cases such medical attendants as may be prescribed.

(b) A medical officer of every pilgrim ship shall perform such duties and functions, keep such diaries and submit such reports or other returns, as may be prescribed.

(c) No medical officer or attendant on a pilgrim ship shall charge any pilgrim on such ship for his services.".

Insertion of new sections 261A, 261B, and 261C.

14. After section 261 of the principal Act, the following sections shall be inserted, namely:—

Bunks to be provided for passengers.

"261A. Every special trade passenger ship making a voyage the duration of which, in ordinary circumstances, may extend to seventy-two hours or more shall provide for each passenger on board a bunk of the prescribed size and particulars.

Space to be provided for passengers when bunks are not provided.

261B. Every special trade passenger ship making a voyage the duration of which, in ordinary circumstances, may not extend to seventy-two hours, shall provide space for each passenger at the prescribed scale.

261C. Every special trade passenger ship shall have reserved as airing space for the use of passengers on board, gratuitously by day and by night, so much of the upper deck as is not required for the airing space of the crew or for permanent structure: Airing space to be provided for passengers.

Provided that the upper deck space so provided for passengers shall in no case be less than 0.37 square metre for each passenger.".

15. Section 263 of the principal Act and the heading "*Special provisions regarding pilgrim ships*" occurring before that section shall be omitted. Omission of section 263.

16. For section 264 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 264.

"264. Every special trade passenger ship certified to carry more than one hundred passengers on a voyage the duration of which, in ordinary circumstances, may extend to forty-eight hours or more, shall provide on board a hospital offering such conditions relating to security, space, health and sanitation, and capable of accommodating such proportion of the maximum number of passengers the ship is certified to carry, as may be prescribed.". Hospital accommodation.

17. Sections 265 to 269 (both inclusive) and section 278 of the principal Act, shall be omitted. Omission of sections 265 to 269 and section 278.

18. In section 279 of the principal Act, in sub-sections (*1*) and (*5*), for the words, brackets, letter and figures "clause (*b*) of sub-section (*3*) of section 278", the words, brackets, letter and figures "clause (*b*) of sub-section (*5*) of section 255" shall be substituted. Amendment of section 279.

19. In section 280 of the principal Act, for the figures "278", in the two places where they occur, the figures "255" shall be substituted. Amendment of section 280.

20. In section 282 of the principal Act— Amendment of section 282.

(*i*) in clause (*j*), for the words and figures "sections 265 and 268", the word and figures "section 257" shall be substituted;

(*ii*) in clause (*s*), for the word and figures "section 278", the word and figures "section 255" shall be substituted.

21. In section 284 of the principal Act, after sub-section (*2*), the following proviso shall be inserted, namely:— Amendment of section 284.

"Provided that different requirements may be specified for special trade passenger ships.".

22. In section 299 of the principal Act, after sub-section (*2*), the following sub-section shall be inserted, namely:— Amendment of section 299.

"(*3*) Where on receipt of a declaration of survey granted under Part VIII in respect of a special trade passenger ship or a pilgrim ship,

the Central Government is satisfied that the ship complies with the provisions of this Act and the rules made thereunder relating to construction, life saving appliances and space requirements, it may in addition to the certificates referred to in sub-sections (*1*) and (*2*), issue in respect of the ship a special trade passenger ship safety certificate and a special trade passenger ship space certificate.".

Amendment of section 304.

23. In section 304 of the principal Act,—

(*a*) in sub-section (*1*), after the words "a passenger ship safety certificate", the words "or a special trade passenger ship safety certificate" shall be inserted;

(*b*) in sub-section (*2*), for the words "safety convention certificate", the words "passenger ship safety certificate or special trade passenger ship safety certificate" shall be substituted.

Amendment of section 307.

24. In section 307 of the principal Act, in sub-section (*1*), for the words "being a certificate which by the terms thereof is applicable", the words "accompanied by a special trade passenger ship safety certificate and a special trade passenger ship space certificate, being a certificate which by the terms thereof is applicable" shall be substituted.

Amendment of section 436.

25. In section 436 of the principal Act, in sub-section (*2*), in the Table,—

(*a*) after Serial No. 89 and the entries relating thereto, the following shall be inserted, namely:—

"89A	If a master, owner or agent contravenes sub-section (6) of section 255.	255(6)	Fine which may extend to two thousand rupees."

(*b*) after Serial No. 90 and the entries relating thereto, the following shall be inserted, namely:—

"90A	(*a*) If medical offier and attendants are not carried on a pilgrim ship in accordance with clause (*a*) of sub-section (*4*) of section 259; or	259 (*4*) (*a*)	The master, owner or agent shall be liable for each voyage made in contravention of clause (*a*) of sub-section (*4*) of section 259 to fine which may extend to three hundred rupees;
	(b) if a medical officer of attendant on a pilgrim ship contravehes clause (*c*) of sub-section (*4*) of section 259;	259(*4*)(*c*)	fine which may extend to two hundred rupees.";

(c) Serial Nos. 92 and 93 shall be omitted.

Amendment of section 458.

26. In section 458 of the principal Act, in sub-section (*3*), for the words "two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following", the words "two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Merchant Shipping Act, 1958, contains *inter alia* provisions relating to safety and space requirements of unberthed passenger ships.

2. The Special Trade Passenger Ships Agreement, 1971, and the Protocol on Space Requirements for Special Trade Passenger Ships 1973, evolved under the auspices of the inter-Governmental Maritime Consultative Organization, deal with safety and space requirements respectively applicable to Special Trade Passenger Ships. A Special Trade Passenger Ship is what is commonly known as an unberthed passenger ship. With the introduction of "berths" or "bunks" for passengers the 1971 International Conference held in London considered that the expression "unberthed passenger ships" was a misnomer. It renamed these ships as "Special Trade Passenger Ships". These ships are dominantly employed for movement of passengers in developing countries only. Passengers on these ships generally come from weaker sections of society. Their capacity to pay the economic level of fares is limited. Consequently the amenities which could be provided also get limited. Influenced by these considerations and by the fact that these ships normally operated in tropical waters where visibility is usually better and conditions at sea smoother for the greater part of the year, the International Conference which adopted the first international convention on safety of life at sea in 1929, permitted Administrations to exempt these ships from the requirements of the convention provided the provisions relating to construction of ships were complied with to the fullest extent possible and general rules applicable to these ships were framed in concert with other Administrations directly interested in the carriage of unberthed passengers.

3. The general rules so formulated (known as the Simla Rules, 1931) still regulate safety requirements applicable to those passenger ships although the safety requirements applicable to cargo ships have been considerably stepped up as a result of emergence of safety conventions of 1948 and 1960. India felt committed to advocate the cause of safety of nearly 100,000 passengers annually travelling by these ships and endeavoured to step up safety standards applicable to special trade passenger ships to the extent possible. These efforts have culminated in the acceptance of the 1971 Agreement and accession to the 1973 Protocol.

4. The Bill seeks to implement the provisions of these two international instruments.

NEW DELHI;
The 23rd March, 1976.

G. S. DHILLON.

MEMORANDUM REGARDING DELEGATED LEGISLATION

New clause (47A) of section 3, as proposed to be inserted by clause 3 of the Bill, seeks to define "special trade" as meaning the conveyance of large numbers of passengers by sea within such sea areas as may be prescribed by rules made by the Central Government under the Merchant Shipping Act, 1958. Section 241, as proposed to be substituted by clause 5 of the Bill, seeks to empower the Government to prescribe the form of certificate 'A' which a master of the ship should hold and particulars, other than those specified in sub-section (2) of that section, which the certificate should contain. New sub-section (5) of section 255, as proposed to be inserted by clause 9 of the Bill, seeks to empower the Government to prescribe the port or place at which the master, owner or agent of the ship shall advertise the particulars specified in that sub-section and the manner in which such particulars shall be advertised. New sub-sections (3) and (4) of section 257, as proposed to be inserted by clause 11 of the Bill, seek to empower the Government to prescribe the form of the statement to be signed by the master of every pilgrim ship departing or proceeding from any port or place in India and the particulars to be entered therein. New sub-section (4) of section 259, as proposed to be inserted by clause 13 of the Bill, seeks to empower the Government to prescribe the qualifications to be possessed by medical officers in every pilgrim ship carrying pilgrims and crew not exceeding one thousand in number, the duties and functions to be performed by such officers and the diaries to be kept, and the reports or other returns to be maintained, by them. New sections 261A and 261B, as proposed to be inserted by clause 14 of the Bill, empower the Government to prescribe the size and particulars of bunks to be provided for in special trade passenger ships, and where such bunks are not provided, the scale of space for a passenger. Section 264, as proposed to be substituted, by clause 16 of the Bill, seeks to empower the Government to prescribe the conditions relating to security, space, health and sanitation of a hospital to be provided on board in every special trade passenger ship and the proportion of the maximum number of passengers such ship is certified to carry.

2. The matters with regard to which the Central Government is proposed to be empowered to make rules are matters of detail. The delegation of legislative power is, therefore, of a normal character.

B. N. BANERJEE,
Secretary-General.

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